

MEETING RECORD

NAME OF GROUP: PLANNING COMMISSION

DATE, TIME AND PLACE OF MEETING: Wednesday, May 10, 2006, 1:00 p.m., City Council Chambers, First Floor, County-City Building, 555 S. 10th Street, Lincoln, Nebraska

MEMBERS IN ATTENDANCE: Jon Carlson, Gene Carroll, Michael Cornelius, Dick Esseks, Gerry Krieser, Roger Larson, Mary Strand, Lynn Sunderman and Tommy Taylor. Marvin Krout, Ray Hill, Brian Will, Steve Henrichsen, Greg Czaplewski, Tom Cajka, Jean Walker and Teresa McKinstry of the Planning Department; media and other interested citizens.

STATED PURPOSE OF MEETING: Regular Planning Commission Meeting

Chair Jon Carlson called the meeting to order and requested a motion approving the minutes for the regular meeting held April 26, 2006. Motion for approval made by Strand, seconded by Carroll and carried 7-0: Carlson, Carroll, Cornelius, Esseks, Krieser, Larson and Strand voting 'yes'; Sunderman abstaining; Taylor absent.

CONSENT AGENDA
PUBLIC HEARING & ADMINISTRATIVE ACTION
BEFORE PLANNING COMMISSION:

May 10, 2006

Members present: Carlson, Carroll, Cornelius, Esseks, Krieser, Larson, Strand and Sunderman; Taylor absent.

The Consent Agenda consisted of the following items: **SPECIAL PERMIT NO. 06031, ANNEXATION NO. 06006 and STREET AND ALLEY VACATION NO. 05008.**

Ex Parte Communications: None.

Larson moved to approve the Consent Agenda, seconded by Carroll and carried 8-0: Carlson, Carroll, Cornelius, Esseks, Krieser, Larson, Strand and Sunderman voting 'yes'; Taylor absent.

Note: This is final action on Special Permit No. 06031, unless appealed to the City Council by filing a letter of appeal with the City Clerk within 14 days of the action by the Planning Commission.

There were no requests for deferral.

COUNTY CHANGE OF ZONE NO. 06022
FROM AG AGRICULTURAL TO
AGR AGRICULTURAL RESIDENTIAL,
COUNTY PRELIMINARY PLAT NO. 06005,
WENDELIN ESTATES 1ST ADDITION,
and
COUNTY SPECIAL PERMIT NO. 06028
TO ALLOW RESIDENTIAL LOTS TO BE LOCATED
WITHIN 1320' OF A PUBLICLY OWNED LAKE,
ON PROPERTY GENERALLY LOCATED
AT S.W. 62ND STREET AND W. SPRAGUE ROAD.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

May 10, 2006

Members present: Larson, Taylor, Carroll, Esseks, Strand, Cornelius, Krieser, Sunderman and Carlson.

Staff recommendation: Denial.

Ex Parte Communications: None.

Additional information for the record: Ray Hill of Planning staff submitted additional letters in opposition and one letter in support.

Staff presentation: Ray Hill of Planning staff explained the application as set forth above. This proposal seeks to allow dwellings within 1320' or 1/4 mile of the property line of a publicly owned lake of 30 acres or more. The location of this project is at S.W. 62nd Street and W. Sprague Road, which is a little less than four miles west of Sprague.

Hill displayed a map on the screen showing the boundaries of the lake, the project area and the area of the project that is within 1320' of the publicly owned lake. He also displayed a layout showing the streets, lots, wetlands and flood area. The Land Use Map from the Comprehensive Plan shows some AGR land to the east of this proposal. The Comprehensive Plan does talk about there being two areas of development in the County – AG and AGR, both of which allow residential development and it does allow for the clustering of these residential developments into three-acre lots through the community unit plan process.

The staff is recommending denial of the proposal due to concerns about acreage development in the rural area that is not clustered. The staff would prefer to group the

residential development to provide for better service to the residential uses. It is more efficient if clustered, resulting in less paved roads and fewer and shorter bus routes, and it reduces the amount of potential conflict between farm operations and the acreage owners.

Esseks expressed concerns about the distance between the proposed development and the emergency medical service station in Crete. Esseks believes there are already 10 residential units shown in the yellow section and another five a little further east, equaling 15. Adding the 26 being proposed here comes to a total of 41. Esseks believes it is 8.6 miles from this location to the Crete Fire Station. He also found out that the Crete Fire Station does not have full-time staff, resulting in more than 10 minutes for response time. From his research, Esseks also believes there will be between two and six calls per year. That is a lot of distance to travel and a rather long response time. Is there any information we can give to people as to whether this is the right thing to do? Hill pointed out that the staff has recommended denial of the proposal, and that is one of the issues. When you allow acreage development to be scattered throughout the county, it does spread out the services. The staff does encourage the clustering of these areas. The Comprehensive Plan does show many, many sections and areas for acreage type development in the county because we figure about 6% of the population chooses to live outside the city limits; however, they need to be clustered so that the services can be provided and planned for.

Proponents

1. JD Burt of Design Associates, 1609 N Street, appeared on behalf of **TO DEW, LLC** (Deb and Todd Wendelin, brother and sister) in support of this master development plan for their combined ownership. Prior to any finalization of the plan, the applicant sent out 75 mailings to property owners in the general vicinity. One of the mailings was returned and the applicant received one telephone call from a neighbor in support, believing this to be the highest and best use. There was one neighbor in opposition; however, he is choosing to be neutral at this point.

Burt submitted that this is a good location for acreage development because it is already on a paved road, there is adjacent AGR zoning, it is a good use of infrastructure, with no additional improvements to be made by the taxpayers.

Burt also submitted that this is a project that is pleasing and yet not disruptive to the environment. There is a drainageway through the center of the site which was treated as an area that would likely be involved with wetlands. Access has been limited across that area to one point, which is two of the waiver requests. They have received the final wetlands delineation and have altered the interior roadway in response to the Planning Department concern. Another east/west street connection has been included, so there will be one less waiver to address. The applicant will also update the information on the plat to include the actual location of the wetlands. The street was jogged to the west to avoid the wetlands completely. There will be no permitting required from the Corps of Engineers. The general notes include an acknowledgment that this is an agricultural environment and that certain activities are allowed by right. This information will be passed on to all buyers.

As far as the density concerns, Burt pointed out that they specifically created lots that are at least 5 acres in order to reduce the density, and are requiring that whenever someone goes in for a building permit, they are required to have three buildable acres to comply with state and county regulations. The density will not be allowed to go beyond 26 dwelling units.

Strand acknowledged that the applicant has made provisions so that the lots cannot be further subdivided, but what happens 40-50 years down the road when the city grows out there and they suddenly have to pay for city improvements and will want to subdivide to help pay for the improvements? Burt's response was that this property is outside the 50-year service limit. It is hard to judge what design standards are going to be in place at that time.

Opposition

1. Nicole Bogen, 1248 O Street, Suite 800, testified in opposition on behalf of **Heritage Prairies, LLC**. She agreed with the staff recommendation that this is a bad idea. There would be a substantial increase in acreages in this area. There are currently 15 scattered in that area, with a group of 11 near the Blue Stem Lake and then four to five along W. Sprague Road. AG zoning allows seven 20-acre parcels. Changing the zoning to AGR would make potential for 51 3-acre parcels, a 7 times increase, which would increase traffic on the gravel roads as well as W. Sprague Road. This large increase in the number of parcels is very near to Blue Stem Lake. The Comprehensive Plan provides for protection and isolation of nature and recreational areas for use by the public. This proposal would increase the dust, traffic and density in the area. With regard to "build-through", Bogen pointed out that although the property is outside of Lincoln's "tiers", it is only a couple miles from Sprague. Should Sprague grow in that area, it could be a potential problem. The area is currently very agricultural and geared toward recreational use with the Blue Stem Lake, and that would be defeated with this development.

Bogen also pointed out that the Comprehensive Plan calls for identification and preservation of existing waterways and green spaces. This proposal does not show how those would be protected. It is not clear how that wetland area is going to be protected and how the drainageway is going to be protected and the effect on Blue Stem Lake.

2. Kathy Wilcox, 18300 S.W. 72nd Street, testified in opposition on her own behalf as well as Bill Snider and Ron and Dee Birdwell, who each own 20-acre lots which are adjacent on the north side of the proposed development. Their biggest concern is water availability. This proposal will add 41 new properties sucking water from the same aquifer as their own wells. When Ms. Wilcox purchased her property, she was assured that this property would never be sold or developed because it was in a trust. She owns a log home in a very rural setting. She believes that adding urban development to the area will decrease her property value. Wear and tear on the roads is a concern with the increase in traffic.

3. **Bruce Sackett**, Administrator for the Realty Division of the **Nebraska Game and Parks Commission**, stated that the Game & Parks Commission wants to be on record as being very happy with Lancaster County's protection of the surrounding areas around the Lincoln community, specifically the Salt Valley tracts, and Blue Stem is one of the state recreation areas. The Game & Parks Commission is happy with the 1320' restriction and requests that it be continued to be placed on property to protect the recreation area. Game & Parks would prefer that there be no development on the fringes and that environmental issues be considered around the lake. Sackett agreed with the staff report and recommendation of denial.

Staff questions

Esseks inquired as to how many dwelling units would be allowed if they applied for a community unit plan with a bonus on the 157 acres of land. Hill stated that they would still have an average lot area of 20 acres, plus a 20% bonus with the cluster, which would be approximately nine to ten lots.

Response by the Applicant

In response to the concern raised about the gravel roads and additional traffic, Burt pointed out that S.W. 67th Street is county-owned but he understands that it is privately maintained. One of the problems is lack of maintenance on that roadway and as a result, the proposal attempts to distinguish this development from the adjacent developments with the primary access at S.W. 66th Street to allow folks to come into a development with maintained roads and manicured ditches, etc. The Wendelins are still weighing the considerations between gravel and asphalt. He would not be surprised that people will tend to be more desirous of paved roads and he would envision that it will very likely be paved and not create any additional traffic on S.W. 62nd in the first three or four phases.

As far as the concern for "build-through", Burt suggested that the smaller communities like Sprague or Bennet, etc., have a very, very small rate of growth and their jurisdiction is one-mile out from the present corporate limits, so these developments come into the Lincoln-Lancaster County jurisdiction because of that. He is not aware of a Comprehensive Plan that goes out more than 50 years and he would be surprised if this property landed in anyone's 50-year service limit plan.

With regard to the wetlands and impacts on the park, Burt stated that it is not the applicant's intent to do any disruption within any of the wetlands or the tree masses on the site. There are two drainageways, neither of which will impact any of the wetlands.

As far as water availability, there is information from Al Moser indicating adequate water quantity.

With regard to the impact on property values, Burt did not know that new construction would have any effect on the property values of existing residences.

As far as the testimony by the representative of the Game and Parks Commission, Burt stated that the applicant is also happy with the restrictions found in the special permit to a point where they have included all of the conditions and requirements when within 1320' of the lake. Those conditions have been made applicable to all of the lots within this development. He suggested that if this property were to develop in some other fashion, there would be no guarantee that a 20-acre lot would impose those restrictions.

CHANGE OF ZONE NO. 06022

ACTION BY PLANNING COMMISSION:

May 10, 2006

Carroll moved to deny, seconded by Sunderman.

Esseks sympathizes that this land is not prime for farming – in fact, the soils are rather poor, but he is worried about the density. He believes the applicant could apply for a CUP for nine to ten lots, and that would be a lot better in terms of the service burden and the risk that would be borne by the residents. He believes there would be at least one, if not two, emergency calls per year, and the Crete service is too far away. In addition, it is not advanced life support, but basic life support. He believes that it is unwise to locate the development here and he is impressed by the argument in the staff report that this could be a precedent for more AGR in the area.

Carroll agreed that the density is too much for this area, especially close to the lake. It is important to him that this proposal does not conform with the Comprehensive Plan because the Comprehensive Plan provides the responsibility to consider all residents and this would be a burden to the emergency services and county roads. As the County Board reviews this, they should review their policy of allowing acreages to be scattered across the county.

Strand agreed, but she believes that we are eventually going to need more density out in the county maybe even 75 years down the road, and if we don't plan for it, it makes it difficult on our road structure. We need to do it in a very planned manner.

Motion to deny carried 9-0: Larson, Taylor, Carroll, Esseks, Strand, Cornelius, Krieser, Sunderman and Carlson voting 'yes'. This is a recommendation to the County Board.

COUNTY PRELIMINARY PLAT NO. 06005

ACTION BY PLANNING COMMISSION:

May 10, 2006

Carroll moved to deny, seconded by Sunderman and carried 9-0: Larson, Taylor, Carroll, Esseks, Strand, Cornelius, Krieser, Sunderman and Carlson voting 'yes'. This is a recommendation to the County Board.

COUNTY SPECIAL PERMIT NO. 06028

ACTION BY PLANNING COMMISSION:

May 10, 2006

Carroll moved to deny, seconded by Sunderman and carried 9-0: Larson, Taylor, Carroll, Esseks, Strand, Cornelius, Krieser, Sunderman and Carlson voting 'yes'. This is a recommendation to the County Board.

COUNTY SPECIAL PERMIT NO. 06029

FOR EXTRACTION OF SOIL

ON PROPERTY GENERALLY LOCATED

AT HIGHWAY 77 AND DAVEY ROAD.

PUBLIC HEARING BEFORE PLANNING COMMISSION:

May 10, 2006

Members present: Larson, Taylor, Carroll, Esseks, Strand, Cornelius, Krieser, Sunderman and Carlson.

Staff recommendation: Conditional approval.

Ex Parte Communications: None.

Additional information for the record: Ray Hill of Planning staff submitted one additional letter in opposition and a memo from the Lower Platte South NRD discussing additional permits that would be needed through NDEQ. The Clerk also submitted an additional letter received in opposition.

Staff presentation: Ray Hill of Planning staff explained that this is a County special permit to allow mining and extraction of soil, dealing with the removal of almost 1,600,000 cubic yards of soil. There has been a lot of speculation about the ultimate purpose of this special permit. Hill reminded everyone that the only item that the Planning Commission is dealing with today is the special permit for the extraction. Any other special permit or action on this property would require its own separate application and public hearing.

Hill pointed out that the Davey one-mile jurisdiction is within a few 100 feet of this application. He showed the areas of fill and cut on the map. The biggest cut is 40 feet. There are conditions of approval spelled out in the County Zoning resolution dealing with the extraction of soil. The staff review also lists the city criteria for the three-mile jurisdiction.

Carroll inquired about the contours with the adjoining neighbor to the east. Hill suggested that the grading plan shows that they will bring the grade back to the elevation at the property line and a little bit away from their property line. Wherever the contours are very close together, they are indicating a very steep slope. We have been assured that the slopes, however, would not exceed three-to-one, which is the regulation, but it would be a substantial slope in that particular area.

Larson inquired as to what the property will look like when this is done. Hill advised that the further away the contours, the flatter the property. Water basically flows perpendicular to the contour line. Larson wondered whether it would be a little bit like a bowl with the flat area in the middle. Hill stated, "no", and then attempted to provide a further explanation of how it would be graded on the map.

Esseks inquired about the effect on groundwater. Hill believes the applicant's representative will be providing that information.

In an attempt to get a feel for the amount of soil being removed, Carlson inquired as to how this compares with land being annexed by the city. Hill stated that he has not compared this to other areas. This is a very large tract of ground one mile long and 1/4 mile wide. They are talking about removing 1,600,000 cubic yards. He did not know where they will place it.

Proponents

1. Mark Hunzeker appeared on behalf of the applicant, **Greg Sanford**, the owner of the property. This is an application to extract soil from the site, which is located between Branched Oak Road and Davey Road along the east side of Hwy 77, about five miles north of I-80. There is good access to the site, both on Davey Road and Branched Oak Road, and unrestricted access to Hwy 77. His client has been contacted by three different contractors interested in securing a supply of dirt for various projects, including, but not limited to, a project involving capping the old City landfill, widening of I-80 and various other construction projects in the near vicinity. Transportation costs are very important when dealing with supplying those projects.

Hunzeker's client also previously owned a site which was the subject of a mining operation at the intersection of 56th Street and I-80. In terms of quantities, that site was well over ½ million yards and maybe a million yards. That sounds like a lot, and it is, but it is not as overwhelming a number as it may sound. There were no problems associated with that site. When a person goes into an operation like this, one of the end results is a piece of property that is more developable than before. That is part of the reason that people are willing to allow dirt to be removed.

Hunzeker believes that the staff report is thorough, analyzing both the concerns associated with the county special permit requirements as well as the city special permit requirements. Hunzeker and his client have reviewed the criteria and Hunzeker believes that this proposal complies with both the county and city criteria.

With respect to groundwater, Hunzeker spoke with the Department of Natural Resources and found the registered wells in this vicinity. The closest one is about ½ mile west and north of Branched Oak Road, 300' depth, static water level is 170', and pumping level is 200'. There is another well about ¾ mile to the west at about the half section line, the depth being 243', the static water level is 158' and the pumping level is 180'; and then there is another well about ¾ mile to the west with a total depth of 251', static water level of 148' and pumping level of 225'. The water table in this area is pretty deep and there is no danger of interfering with any water tables in making the cuts involved in this permit.

Hunzeker offered an amendment to the conditions of approval which would require this permit to comply with the remaining criteria that are not part of the county resolution but would be if located in the city jurisdiction. The applicant had already expected to be required to do these things under the NPDES process or NDEQ process. These conditions are implicit in the drawings submitted and are required under the various regulations.

Hunzeker stated that he understands the concerns expressed about potential future use of this property. He assured that the applicant is not here today for that purpose and he will not deny that there is any plan whatsoever or any possibility whatsoever of a future application for some other kind of use of this site. Certainly, he has had contact on that question and he will possibly be submitting an application of some sort to follow this dirt mining operation, but that is not the purpose of this hearing and any such application would require another separate public hearing. Hunzeker requested to keep the discussion relevant to this particular application.

Hunzeker does not believe this site would slope toward Hwy 77, but away from Hwy 77. The fill areas are simply a matter of smoothing out the contours and having maintainable slopes.

Larson inquired as to where the water drains. Hunzeker stated that as it sits today, the high point of the site is around the middle and some drains to the south and some to the north. This soil extraction will not alter the flow of surface water on the site. It will be on a smoother contour than it is today.

Carroll inquired as to the time frame for the overall project. He also asked whether the areas will be filled right away. Hunzeker advised that the fill areas will be accomplished as the cut is being done so that there are not difficult areas to maintain. As far as the time line, this is not a 2-3 month project, thus the suggested time line of three years in the conditions of the special permit is acceptable. Whether or not all of the dirt that can be extracted pursuant to this permit will ultimately be extracted from this site and how long that

takes are matters that will be governed by the demand for the dirt from the contractors who want it. Based on some of the I-80 work, it could go faster than we think, but not all of those contracts have been let yet.

Carroll noted that the NRD is asking the applicant to work with them. Hunzeker agreed and they have no problem with that. The NPDES permit is separate from this action. It is required if you are doing any large excavation project. It requires a lot of examination of the sediment runoff and stormwater control to make sure areas are reseeded, the top soil stripped and stored, etc.

Esseks asked how the land will likely be used after the land has been stripped of so much of the soil. How can it be used to make money? What are some of the uses? Hunzeker explained that all of the topsoil is stripped off in designated areas; it will be stored on the site; and once that area is cut, then topsoil is replaced on that area and it is regraded. This is one of the requirements of the NPDES process and one of the additional conditions Hunzeker has proposed. All of the topsoil has to be stripped, stored and redistributed on the site. It will still be viable farmland, if nothing else.

Esseks noted that the applicant had a property like this in the past. What is the use of that property now? Hunzeker stated that this property was purchased in an exchange for that property at the intersection of I-80 and 56th Street, which property is now intended and is designated, at least tentatively, in the Comprehensive Plan Update for commercial and industrial use.

Larson wondered how many truck loads this project will entail, and whether they would come south on Hwy 77. Hunzeker agreed that the trucks would come south. He did not know how many truck loads there would be.

Support

1. Dan LeGrande of LeGrande Excavating, 3040 O'Shea Drive, testified in support. He has been working with the applicant on this project and the intent is for the landfill capping project plus the I-80 corridor coming through Lincoln, and to be competitive with all the other contractors. They need a dirt source and this is about the closest they can find out in that area. He understands that just the one city landfill closure project is right at 300,000 to 500,000 cubic yards. The I-80 project is around 800,000. The landfill is coming up for bid in the next month and I-80 in the next six months. He does not know the City's overall plan for the landfill capping, but it seems to him that the last 10 years they have been capping about every three to four years, so there is a long range plan to do more capping. He also offered that each truck carries about 20 cubic yards.

Esseks inquired about dust control. LeGrande stated that they do dust control with water trucks. This extraction will be done in 3- to 5-acre increments. Thus, the area of impact will be minimal at any point in time.

Opposition

1. Gary Juilfs, 8801 Davy Road, appeared on behalf of concerned neighbors who are opposed to this application. Approximately 35 to 40 individuals who live in a radius of the subject property stood in the audience indicating their opposition. Juilfs stated that they object to the purpose of this application. The zoning regulations require that the applicant provide a copy of a plot plan and proposed uses drawn to accurate scale showing all pertinent information. The applicant states that the purpose is to remove excess soil and to contour; however, the neighbors do not believe this to be the actual purpose. They believe he will complete the site preparation for future use as a drag racing strip. An examination of the plot plan clearly shows the property being developed expressly for this purpose.

The neighbors' concern is the future use. The applicant has been the owner of a drag strip since 2000 and he has publicly expressed plans to develop a drag strip in the Lancaster County area for at least the last five years. This is why the neighbors are concerned about this application. This property should not be rendered unsuitable for any other purpose than the developer's future purpose. Allowing this type of tactic is an unacceptable planning practice and not in conformance with the goals of the current Comprehensive Plan.

2. Tom Keep, 8601 Davey Road, who is a professional engineer retired from USDA Natural Resource Conservation Service, provided exhibits showing that the proposed grading plan is for a future race track. A straight runway is clearly depicted by the grading plan. Drainage soils are shown between the roads and the track. Entrance roads for participants appear to be shown off of Branched Oak Road and Hwy 77. The proposed grading plan is in such detail that it even appears to show a fill location for a large sign at the corner of Branched Oak Road and Hwy 77. Keep also showed cross-sections prepared from the grading plan, which show the crown in the track, the return roads, a 30' high slope, fill next to Hwy 77, and then sloping the land toward the track. He believes that the drainage is significantly altered on the site. It even appears to show a place where grandstands will be located. The initial application specifies 377,112 cubic yards of compacted fill. He is curious why an application to remove excess soils would include compacted fill calculated to such a specific number. This represents over a half million dollar investment to fill this site. The applicant clearly intends to complete final site preparation for a drag strip.

Keep suggested that it would be a mockery of the Lancaster County planning process to allow construction of a drag strip by allowing the earth work needed without applying for the proper special permit. He requested that the applicant be forthcoming on the purpose of the permit and go through the process of obtaining a permit for its intended purpose.

Keep also submitted an analysis of the changes in drainage on the site as a result of this permit. No stormwater or sediment management measures are shown at this point. He believes the drainage of the site will be increased and will result in tremendous increase in volume and runoff.

Keep also submitted an exhibit of the effect of soil loss. He projects that there will be a ten-fold increase in sediment produced from the site.

Strand asked Keep if he would have a problem with this special permit if the applicant was just going to mine the land for the soil and it was not contoured to appear that it was going to be used for a drag strip. Keep indicated that he would still have problems about potential sediment loss. The point he is making is that the grading plan represents a very detailed site preparation plan. If the grading plan were changed, Keep would agree that it is an applicable mining permit, but that is not the contours that are shown.

3. Phil Pfeiffer, 15400 N. 56th Street, testified in opposition. He has a well on his property, which is directly adjacent to the south boundary of the proposed project. His property/farm is zoned AG and that is why he moved there. This area is a farming community of family farms. He enrolled in the conservation reserve program to create a haven for wildlife. He built a dam and created a pond for soil and water management; he has taken many extra measures to control soil erosion. Good land stewardship saves the state hundreds of millions of dollars per year. Good stewardship of the land is in his family's blood. Since 1987, he has planted 12,000 trees and shrubs and five species of native grasses. He has planted 12 acres of grain each year leaving it for wildlife. In 1990, he received a Key to the City and received the Nebraska Outstanding Wildlife Conservation award. His property consists of well-established stands of native grass, trees, shrubs and an abundance of wildlife. His family has spent 19 years to develop the property to a model of soil and water conservation. Now, a man from another county has purchased the adjacent land and his first order of business is to apply for a permit to remove excess soil, with an ulterior motive. This will be adjacent to his wildlife refuge and sanctuary for peace and quiet.

In addition, Pfeiffer suggested that the staff has not thoroughly done their homework on this plan. This is not a typical application. No staff has spoken with him or asked to examine his property. To his knowledge, no one has walked his property or recorded the types of plants and wildlife species, and no one has filed an environmental impact statement. He believes this proposal will have a huge negative effect on his property.

Pfeiffer does not believe the minimum standards are sufficient. He has seen what happens after each moderate rain as far as loss of soil. A typical 2" inch washes 50 tons of silt. Pfeiffer has consulted with an engineer, who has performed a calculation, submitted as Exhibit B, which shows that during the mining the watershed will be increased four-fold. This mining activity will increase the runoff and peak discharge.

Pfeiffer also submitted Exhibit A which lists the organizations that have worked with him to help create this learning environment.

Pfeiffer concluded his testimony with the following questions: How much silt will be washed onto the Pfeiffer property? How much vegetation will be inundated and covered with three feet or more of mud? How many mature trees will die? How much money will he have to be spent

on legal fees to get damages for silt removal? He does not want the silt on his property. The area is zoned agricultural and should be protected from mining and massive soil loss. Mr. Sanford's special permit should be denied until he comes forward with his final plans for the use of the property.

4. Karen Kurbis, 17500 N. 84th Street, testified in opposition with concerns about the safety of this proposal. The staff report states that the surrounding land use and zoning includes five dwellings; however, she submitted that within the 2-mile radius there are acreages, farm houses, the town of Davey and a cemetery. It will impact over 200 local residents. It will impact those traveling Hwy 77. Slow moving trucks already are pulling out in front of high speed traffic. The roads are periodically covered with soil from mining sites, resulting in traffic hazards. The roads are not capable of sustaining high volumes of traffic and the heavy equipment from this project. Hwy 77 requires caution when merging from the county roads. Branched Oak Road has the additional problem of visual impairment due to the terrain of the land. The trucks will all have to make left turns, increasing crossing time and slowing down local residents' access to the highway. She requested a condition that all soil moving equipment be required to enter and leave via Hwy 77 only, and that they not be allowed to use Davey Road or Branched Oak Road. It would reassure the neighbors if there were a bond requirement for any damages to the roads. The neighbors may be forced to take alternate routes on more miles of county roads. The neighbors are strongly opposed to this mining permit and request that it be tabled until the applicant addresses the real issue at hand, which she believes to be the race track. The hours of operation must be daylight hours with no Sundays, and the permit should be limited to two years. She would like to be assured that the project will be shut down if the applicant does not comply with the conditions imposed on the special permit.

5. Joni Christensen, 8405 Davey Road, testified in opposition. She created a home-based gardening and green house business to support her family. She is adamant about soil condition, water quality and conservation. She has concerns as to the magnitude of this project. 1.9 million gross cubic yards will affect her neighborhood for an incredible amount of time. You have to ask yourself, why would this much dirt have to be relocated unless there is an underlying plan for this property? What do we have to endure during this lengthy mining process? There will be over 100,000 truck loads of dirt mined, which will tie up traffic, block roadways and raise many safety issues. Will hundreds of beautiful trees be stripped and hauled away? Or will they be burned, raising additional health issues? What about the 30-40 mph winds, rendering our nearby families and homes powerless and forced to breathe dusty air. Even current farming practices demonstrate higher standards of wind erosion. Will weeds be allowed to overtake where trees and crops once stood? This property will closely resemble a strip mine instead of rolling hills of lush farm ground. The desecration of the land will leave the neighbors with a blighted area. The subsoil exposed after removing the surface soil will be barren of plant nutrients. Removal of 4-6 inches of surface soil will not be adequate to assure good plant growth after mining, rendering the property unsuitable for farming. She suggested that the applicant should be required to submit a reclamation plan if this is truly a mining permit.

6. John Baumgartner, 5800 Davey Road, which is directly to the north of the subject site, testified in opposition:

- a) this application undermines the planning process by not providing all the information for the Planning Commission to consider; it is not just a special mining permit, but a plan to move 1.9 million yards of soil; the soil grading plan is not for farming but for a long flat area specifically prepared for “I don’t know what”. It is not the County’s responsibility to grant a permit that prepares an agricultural zoned property for what is not an agricultural end result. Since the grading plan is so detailed, why doesn’t the Planning Commission see it as a complete plan and application for change in land use for the express purpose of racing vehicles across the road from his residence and home school?
- b) The proposed plan does not adequately address the environmental concerns, such as erosion in light of endangerment of the wildlife sanctuary directly to the south; there is no plan to reclaim the land after removal of the soil.
- c) Safety is also an issue. There is no requirement to limit the hours of operation to provide for safety of the driving public or damage to roads. The dust blowing from this site onto other properties has not been addressed. Traffic on surrounding roads may be at risk to poor visibility. This is a health and safety concern for all drivers that use Hwy 77.
- d) This soil mining project will generate a reduction in property values to the surrounding properties. His value depends on a rural setting. A mining operation would disrupt wildlife and does nothing but lower values of surrounding property.

Baumgartner strongly urged that the Planning Commission review carefully what has been presented and recommend denial of the permit. The applicant has apparent intentions to remove dirt for an intent and purpose which is clearly at odds with agricultural zoning.

7. Ralph Olson, 23333 N. 40th Street, testified in opposition. He is President of the Davey Cemetery Association, which is directly across the road to the west. This property needs to remain zoned as agricultural and not converted to commercial use. Agricultural land should be maintained instead of being decreased. This area of north Lincoln has already provided area for the Lincoln city dump and LES windmills. If this destruction of agricultural land is necessary, it should be somewhere else, either east of the city or northwest of Lincoln. We who live north of Lincoln have furnished enough already.

8. Sheila Collins, 1805 Davey Road, testified in opposition and submitted a list of people in opposition who could not attend this hearing. If this special permit is granted, she requested that a provision be added specifying that “nothing is to be done to ready the site for building a race track or drag strip.”

9. Wayne Nielsen, 14000 N. 70th Street, testified in opposition. He and his son have farming operations in the area. He believes this is a back door approach that would lead to the eventual request to locate a drag strip at this location. This permit allows the site preparation for such enterprise. It behooves the Commission to consider what they are voting upon. In the future, the applicant can make an argument that since the earth has been removed it is no longer fit for agricultural use. If in the future a request is made for a drag strip to be located here, it would create a host of problems for the area. The mining operation is not without problems, including an eyesore to the landscape; severe water and wind erosion; heavy truck traffic entering and exiting the surrounding roads, among others. The Planning Commission must use careful deliberation because he believes there is more involved here than just the mining request. This may affect the future of our agricultural community in which we live.

10. Louann Merwick, LD Acres, Hwy 77 and Raymond Road, testified in opposition. There are eleven acreages on the east side of the highway. The property is within the Waverly School District and the bus travels in the vicinity. She agreed with the previous opposition and is opposed for public safety reasons. Merwick also advised that she is acquainted with the applicant. A few years ago, he expressed an interest in purchasing her farm ground near Ashland for the purpose of a drag strip. She declined the offer. The applicant also contacted her brother who owns land in Cass County. He also rejected the applicant's offer.

11. Linda Stich testified in opposition. She pointed out that just yesterday the County Board approved her application for a vet clinic at 84th and Branched Oak Road. She is concerned about the truck traffic. Some of the trailers for the equine vet clinic will be traveling Hwy 77 and they are going to have trouble getting on and off the highway with the truck traffic at exactly the same location.

12. Mark Blowers, 17850 N. 3rd Street, Davey, testified in opposition. He works in Lincoln and drives Hwy 77 daily. About 5.5 miles north of Lincoln, you reach a peak. The land in question is at that peak, so he believes the runoff goes both to the south and to the north. This peak is a very pinnacle of land, a very high point of land, and a very picturesque area. He believes the 1.6 million cubic yards represents 80,000 truck loads. The Commission needs to grasp the amount of soil that this involves. He believes it far surpasses what took place at Hwy 77 and Bluff Road. This would be more than three times as much. That's a huge amount of dirt. If you look at the lay of the land, the property owner to the south would be severely impacted by runoff from this property. Blowers is also concerned about safety.

Staff questions

Strand recalled a special permit by General Dynamics for the removal of concrete recently and she believes the hours of operation were restricted. Hill agreed that the hours of operation are sometimes included in the conditions and he believes that would be acceptable in this situation.

Strand then inquired about requiring the applicant to post a bond for damages to the roads. Hill's response was that the Planning Department did send a copy of this application to the State of Nebraska Department of Roads; however, they have not responded. If the Commission desires, this action could be delayed until comments from NDOR have been received.

Strand agreed that the contours shown raise questions about plans for the site in the future. Is a reclamation plan required? Hill believes that to be part of the conditions of approval. They have to do all the work, regrade, bring the soil back on and then plant grass and other vegetation on the land. It may not be called a reclamation plan, but that is part of the conditions of the total project that would be required by the state. The applicant is not required to state the future use of the land. The concern is more that the land be protected from erosion.

Carroll asked Hill to clarify the access to Hwy 77. Hill would like a response from NDOR, but the County Engineer is indicating that the applicant shall be responsible for maintaining and repairing the county roads, should any damage occur. The access to Highway 77 is limited to the existing access to Hwy 77, i.e. only one access on Hwy 77. This does not mean that they cannot take access to the county roads.

Larson recalled a mining permit a few years ago at about 85th and A, and the land was used to fill at 83rd and Van Dorn. How many cubic yards was involved in that permit? Hill did not know, but he is sure it was substantially less.

Esseks inquired about the distance between each contour line. Hill believes that the interval is two feet. Esseks believes this will result in some rather steep cuts. The one in the center is at least 34'. They are straight. It really does look like they are grading and excavating for a road. We need soil mining in our community but it should not be any more than is necessary. He would like the County Engineer to comment on this issue. Is the grading plan excessive in terms of the amount of time, causing dust and runoff into adjoining waterways? If the applicant is asking us to approve excavation in terms of time and moving of earth, Esseks believes it is unfair to the adjoining property owners. We have to balance their interest with those of the community. He does not think we should approve a plan which may be excessive. Hill did not know how to address the term "excessive". The applicant is indicating that they may have contracts for that many cubic yards of excavation. Three years is a time limit that has been used for other excavations. For example, there was a permit issued on property located north of the Interstate, southwest of the airport that was given a three year limitation and given the opportunity to expand and continue that operation on a one-year basis.

Esseks believes there is a difference between mining soil and sculpturing the landscape for a second or alternate use. Hill did not deny that this site plan does appear to be preparing the land for some other use, but what is before the Commission today for consideration is whether the application meets the criteria set forth in the regulations and whether it allows for proper drainage and does not create adverse situations where there would be ponding of water.

Carlson inquired about staff's reaction to the proposed additional conditions of approval submitted by the applicant. Hill indicated support for the additional conditions.

Carlson commented that this is a county special permit for mining, recognizing that mining is not allowed by right and is a unique circumstance, may have unique conditions and may ultimately not be appropriate. Carlson believes that the final contour seems atypical for agricultural zoning. Hill agreed that it is quite obvious that it is not the typical finished contour line for an excavation project, but all that the staff and Commission have been asked to respond to is the application for the excavation.

Carlson posed the question: is the mining appropriate? Part of that process is to understand what the end result is going to be. Are there other agricultural uses that have had this kind of atypical profile? The assumption is that the mining will go on and at the end of the mining process it will remain AG and AG uses.

With regard to runoff and soil loss, Carlson noted that there are conditions that sort of point to that. Do we have information that there will be excessive runoff? Hill referred to the comments from the NRD, which indicate that the applicant will be required to comply with the permits required by the State of Nebraska, and one of those has something to do with stormwater pollution, i.e. sedimentation and erosion leaving the site. They also have to get a permit from the state for the grading. We have to assume that the state and their regulatory rules will address these issues. If it is found that the contours cannot prevent the runoff, there would be opportunity for the applicant to revise the plan administratively to meet those criteria.

Hill addressed the concerns about the road network by posing this question to the Commission: If you were wanting that many trucks coming and going from the site, wouldn't you want them close to a major facility so that they are not out in the middle of a rural area? Wouldn't you want to reduce the travel time and distance of those large trucks? He believes that being adjacent to a major highway would be an advantage.

Strand asked staff to address the environmental concerns for the adjacent conservatory property. Hill was unable to address this issue because he did not do the research or write the staff report. That was done by Mike DeKalb, who is on vacation until May 22nd.

Response by the Applicant

Hunzeker stated that the answer to the obvious issue of what will be done with the property when they are finished with the excavation will be well known long before the three years expire on this permit. Yes, this grading plan is providing for a very flat area; it is about the same width as you might expect a road to be. There will be an application for a use of this site that will require a special permit and a full public hearing. That application will be here before the expiration of this permit. That flat area is one mile long – it could be an air strip – it could be a road. We are not so naive as to think we are going to have whatever we choose on this site without some public input. To the extent necessary, it may be a residential road access

for 9 or 10 acreages under an AG district; it could be something else. But the Commission will have an opportunity to review that in full with all the public input received today and probably more at such time as the applicant files the application.

Hunzeker reiterated that the purpose of this application is to mine dirt, and the applicant intends to do that. Frankly, if you are going to set a standard which requires every dirt mining permit to tell you exactly what is going to happen when the dirt mining is completed, that is going to make that process cumbersome. There has been more dirt mined in this vicinity over the last two to three years than we propose to move out of this particularly large site. This phase of the landfill capping project is probably going to be ½ million cubic yards. They have been at that for some time and have taken dirt from a number of other areas. It is a lot of dirt and it is a lot of trucks.

The drainage issue will be addressed by both the NDEQ and NRD. The communication from the NRD indicates the NPDES permit and stormwater pollution prevention plans have to be filed and approved prior to commencement of any excavating activities. The NRD is very vigilant in the enforcement of these regulations. He assured that they will not have 60+ acres of bare land in existence during the operation of this mining permit. That is not the way these operations work. The NRD would not allow them to be run that way.

As to the dust control, Hunzeker referred to the report in the staff report from the Health Department indicating that the Lancaster County performance standards will apply and will have to be complied with with respect to dust control in accordance with the air pollution regulations and standards of Lancaster County.

With regard to access, Hunzeker clarified that there will be an unrestricted access to Hwy 77 and access to both Davey Road and Branched Oak Road. The County Engineer has a standard form agreement that requires the operator to maintain and repair any damage to the road that is occasioned by the use of the road by heavy trucks.

Esseks agreed that it is probably a good site for soil excavation. If the applicant came in with a normal plan for excavation it would be easy to say yes. But instead, it looks like they are moving more earth than they need to get this road sculpture. That bothers him. Why do you have to achieve this plan? Why can't you wait until you have the separate hearing on the drag strip? Hunzeker responded that they were required to prepare a contour map of the finished site. If the applicant was really trying to be deceptive, he would have submitted something a little less obvious. It is no secret that Mr. Sanford owns a drag strip and that he has had conversations with people about the possibility of having a drag strip in Lancaster County. He is not ashamed of the fact that he intends to make an application, but it is not this one. And whether he is ultimately going to finish out this grade may in fact be dictated by whether or not a subsequent application is approved. This special permit application required the submittal of a finished grade, and this is the finished grade that has been submitted. There has been no adverse comment by any agency.

Esseks clarified that deception is not the point. It looks as though you are moving more earth on site to achieve this ultimate purpose. It seems you could do it in stages. Hunzeker clarified that it will be done in stages. This is going to be done in small five-acre increments, and to the extent there is fill moved around on the site at the same time, that is simply efficient use of the equipment and material. This is not going to be a 160 acre stripped site. It can't be. NDEQ and NRD would not approve it that way.

ACTION BY PLANNING COMMISSION:

May 10, 2006

Carroll moved to approve the staff recommendation of conditional approval, including the amendments proposed by the applicant today, seconded by Strand.

Strand moved to amend to 1) restrict operation to five days per week, Monday through Friday, during daylight hours; 2) require bonding for damages that may be caused by trucks to county and state roads, with the dollar amount to be approved by the county or state; and 3) the excavation is to be done in 5-acre parcels with reclamation to follow as soon as possible after completion of grading for each parcel, seconded by Larson.

Carroll commented that he has been involved with land excavation and it is tough to do it in 5-acre increments. It doesn't really work that way. He thinks that restriction will be difficult.

Strand moved to separate the motion to amend. Larson who had seconded the motion agreed. The Commission did not vote on the motion to separate the amendments.

Upon further discussion, the motion to amend to restrict the operation to five days per week, Monday through Friday, during daylight hours, and to require bonding for damages that may be caused by trucks to county and state roads, with the dollar amount to be approved by the county or state, carried 9-0: Larson, Taylor, Carroll, Esseks, Strand, Cornelius, Krieser, Sunderman and Carlson voting 'yes'.

Upon further discussion, Strand withdrew the motion to amend to require that the excavation be done in 5-acre parcels. It was determined that the state requirements to control erosion would cover this concern. Larson, who had seconded the motion to amend, agreed to the withdrawal.

Esseks indicated that he is bothered by the fact that they seem to be finishing this off – that there is going to be more excavation than necessary. Carroll pointed out that the applicant indicated that it might not happen if the race track is not approved. He knows there is a need for soil in the city for development purposes and Carroll believes this is a great location for that. If the applicant wants to gamble and remove all the soil and then not have a race track, that is the gamble he takes. Esseks would prefer to ask for phasing.

Esseks would like to require that this be an excavation plan just for the purpose of mining soil, and if they get approval of a race track, it can be modified and they can take the next step.

Carroll does not believe that would be a viable statement. If they asked for a race track and it is not approved, they are going to have to grade it to some use at the applicant's expense. Right now it is agricultural use, which allows soil extraction. We are only talking about soil extraction today.

Strand pointed out that the code allows for this special permit. This is a special permit for soil extraction only. If this were a combination package, she would not approve it.

Esseks is concerned about the people downwind.

Carlson agreed with the concerns expressed by Esseks. Yes, this application is allowed to be filed, but it is not a conditional permit. Therefore, the Planning Commission has the latitude to take a broader perspective. The scale of the operation makes it somewhat unique. Typically we see a much smaller scale. It is difficult. He is not comfortable with the way the process seems to be going. He would like to see applications that make a lot more sense. He does not like the "tip-toeing" around. If you have a use with merits, then let's talk about it. He'll look at this "odd-ball" mining permit, but he does not like the way this is being presented.

Cornelius shared his own calculations and at the rate of removal that the Commission has heard about, given the amount of earth and amount of time, he comes up with 12 trucks per hour (12 trucks an hour, 12 hours a day, not counting weekends). Cornelius is not comfortable without comments from the NDOR.

Carroll pointed out that if the applicant does not do what is required, the special permit can be taken away.

Motion for conditional approval, as amended, failed 4-5: Carroll, Strand, Krieser and Sunderman voting 'yes'; Larson, Taylor, Esseks, Cornelius and Carlson voting 'no'.

Cornelius moved to defer two weeks, with the intent of having comments back from the NDOR, seconded by Strand. Cornelius understands that the staff requested an impact statement with regard to traffic on Hwy 77 and he wants to know what the state has to say about the impact of 12 trucks an hour during daylight hours.

Motion to defer failed 4-5: Taylor, Esseks, Strand and Cornelius voting 'yes'; Larson, Carroll, Krieser, Sunderman and Carlson voting 'no'.

Taylor moved to deny, seconded by Larson and carried 5-4: Larson, Taylor, Esseks, Cornelius and Carlson voting 'yes'; Carroll, Strand, Krieser and Sunderman voting 'no'. This is a recommendation to the Lancaster County Board.

*** Break ***

ANNEXATION NO. 06007,
CHANGE OF ZONE NO. 06026
FROM AG AGRICULTURAL TO R-3 RESIDENTIAL
and
SPECIAL PERMIT NO. 06026,
CHARLESTON HEIGHTS COMMUNITY UNIT PLAN,
ON PROPERTY GENERALLY LOCATED AT
NORTH 14TH STREET AND FLETCHER AVENUE.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

May 10, 2006

Members present: Larson, Taylor, Carroll, Esseks, Strand, Cornelius, Sunderman and Carlson; Krieser absent.

Staff recommendation: Approval of the annexation and change of zone, and conditional approval of the community unit plan.

Staff presentation: Tom Cajka of Planning staff described the proposal, stating that the community unit plan is for 206 single family lots and 144 attached single family lots, for a total of 350 dwelling units. The project is located on the northwest corner of N. 14th and Humphrey Avenue, with existing residential development on the east side of 14th and a new development just starting to take shape on the south side of Humphrey. There is a proposed elementary school and park to the north. There are existing acreages to the west. This area is contiguous to the city limits and all utilities are available to service this property.

The applicant has requested waivers and modifications to the requirements. The staff agrees with the modification of the minimum lot area; however, the staff does not believe the block length and pedestrian easement should be waived. There is adequate area to either move the street or make another street connection to lessen the block length. A pedestrian easement could be put in an alternate location out to 14th Street.

Cajka made a correction to the conditions of approval on the community unit plan, deleting Condition #2.3 because the staff agrees to waive the recreation facility based on the closeness of the park and the elementary school.

Carroll asked whether the park would go somewhere else if LPS does not build a school in this location. Cajka advised that the Parks Department comments state that Parks is not going to ask for park land with this development. The subdivision ordinance allows the Parks Department to either ask for park land or impact fee in lieu of park land. Parks is asking for the impact fee in this situation.

Proponents

1. Paula Dicero of SNB Management Corporation appeared on behalf of the developer, **Charleston Heights, LLC**, which is proposing this residential development of townhouses and single family. She agreed with the conditions of approval set forth in the staff report and **withdrew** the waiver of the pedestrian easement and block length. She explained that the developer is currently in negotiation with LPS. The developer has an option on the 40 acres in the northwest corner. LPS has indicated that they plan to build a school in this area in 2007, but they do not know the location. Therefore, the developer is now negotiating to float it on the north part and will do a land swap wherever LPS decides to locate.

There was no testimony in opposition.

ANNEXATION NO. 06007

ACTION BY PLANNING COMMISSION:

May 10, 2006

Strand moved approval, seconded by Carroll and carried 8-0: Larson, Taylor, Carroll, Esseks, Strand, Cornelius, Sunderman and Carlson voting 'yes'; Krieser absent. This is a recommendation to the City Council.

CHANGE OF ZONE NO. 06026

ACTION BY PLANNING COMMISSION:

May 10, 2006

Strand moved approval, seconded by Carroll and carried 8-0: Larson, Taylor, Carroll, Esseks, Strand, Cornelius, Sunderman and Carlson voting 'yes'; Krieser absent. This is a recommendation to the City Council.

SPECIAL PERMIT NO. 06030

ACTION BY PLANNING COMMISSION:

May 10, 2006

Strand moved to approve the staff recommendation of conditional approval, with amendment deleting Condition #2.3 as requested by staff, seconded by Carroll and carried 8-0: Larson, Taylor, Carroll, Esseks, Strand, Cornelius, Sunderman and Carlson voting 'yes'; Krieser absent. This is final action, unless appealed to the City Council within 14 days.

COMPREHENSIVE PLAN AMENDMENT NO. 06002

and

WAIVER NO. 06002

TO WAIVE THE SANITARY SEWER DESIGN STANDARDS,

ON PROPERTY GENERALLY LOCATED AT

S. 84TH STREET AND ROKEBY ROAD.

CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION:

May 10, 2006

Members present: Larson, Taylor, Carroll, Esseks, Strand, Cornelius, Sunderman and Carlson; Krieser absent.

Staff recommendation: Approval, as revised on May 10, 2006.

Staff presentation:

Steve Henrichsen of Planning staff advised that the waiver is final action by the Planning Commission. The Comprehensive Plan Amendment will be forwarded to the City Council. At the City Council hearing, the Comprehensive Plan Amendment will be joined by a separate developer agreement. The Comprehensive Plan Amendment has two components.

First, this proposes to amend the future service limit to include approximately 740 acres. The previous staff recommendation was for up to 1000 acres, but as a result of meeting with the property owners, the property owners on the eastern portion, generally on the west side of 98th Street, have chosen not to join with the remaining coalition in a developer agreement to pay for the oversizing of the sanitary sewer. The area being added to the future service limit is in a different drainage basin than Beal Slough, and would flow south of Wagon Train Lake; however, the engineers for the applicants have found a way that this area could be served by gravity without a substantial amount of cut and fill being required. Staff concurs with the generalized initial routing for the sanitary sewer. The staff is recommending approval of adding this area, particularly for the area west of 84th Street because it squares off an area that otherwise might require substantial amount of grading to move the ridgeline. By the method of gravity sewer shown here, there is the potential for substantially reducing the amount of fill and earth moving that would be necessary. It is also something that could be done without any type of pump station.

The second part of the Comprehensive Plan Amendment is a change from Tier II for that area outside of the Future Service Limit to be included inside of Tier I, and that all of that land would be shown as Priority A. There is additional land on the east side of 70th that is inside of the Future Service Limit but was shown as Priority B. The staff believes it appropriate for all of the property to be shown as Priority A with the sewer service.

Staff is recommending approval of adding the 740 acres, subject to a development agreement that will fund all of the costs associated with oversizing the sanitary sewer to

service this area. The multiple requests to delay these items were to try to finish all of the engineering studies and that impact has now been addressed. The developer agreement would be reviewed by the City Council.

The staff recommendation is revised to show approximately 740 acres, not including the area of Jensen Park, and revising the legal description for the waiver to exclude those properties that did not want to be added to the Future Service Limit.

Carroll wonders whether excluding the land to the east eliminates them as far as sewer extension. Henrichsen responded, “no”, it reduces the need to build a parallel sewer north of Pine Lake Road at approximately 60th and Pine Lake Road to 56th and Hwy 2. Page 3 of the staff report shows the numerous city sewer lines that would have to be oversized if we did 1000 acres. The Sewer #2 need would be eliminated, but we would still need to extend the sewers south of Yankee Hill out to serve this area.

Larson inquired whether those property owners that opted out have their own septic systems, etc. Henrichsen assumes that they do. Mostly, the offer to them was to include their acres for future development down the road. Most of the property owners have entered into the coalition for urban development rather than any type of acreage development. They would have to wait for the sewer to come south through the Wagon Train Lake area.

Proponents

1. Kent Seacrest appeared on behalf of the new coalition of 13 different individuals and business entities representing about 716 acres, more or less,

They have been meeting weekly to get this group together because the city is building some pipes in Beal Slough and we need to get them sized right. The coalition is paying to oversize those pipes so that we can get this area to drain by gravity flow. This is a great area because of the close proximity to Hwy 2, Jensen Park, and the 84th & Hwy 2 shopping areas. It is a good opportunity to make a great set of neighborhoods. It is a good deal for the city because we are going to end up bringing in about 716 acres and the city is not going to have any oversizing costs to bring in a lot of land. The coalition will also agree to do a master plan for drainage. This area was not in the plan before, but we are going ahead to do the master planning before any annexation and permitting. It is also exciting because this coalition is agreeing to master plan the road network, lot layouts, recreation, trails, etc. in the next six months. Seacrest expressed appreciation to the staff for the extraordinary efforts to bring this area in.

Esseks inquired how the city will reimburse the owners for the oversizing costs. Seacrest stated that they will not be reimbursed. It is an opportunity. The coalition recognizes that it's either pay for it or wait for the sewer to go down Salt Creek down to Hickman, around and then back up. That's a long time. This will keep the city very compact. We will be annexing very contiguously.

There was no testimony in opposition.

COMPREHENSIVE PLAN AMENDMENT NO. 06002

ACTION BY PLANNING COMMISSION:

May 10, 2006

Larson moved approval, as revised today, seconded by Carroll.

Carlson believes this has been a good job of adding another square mile of land.

Motion for approval carried 8-0: Larson, Taylor, Carroll, Esseks, Strand, Cornelius, Sunderman and Carlson voting 'yes'; Krieser absent. This is a recommendation to the City Council.

WAIVER NO. 06002

ACTION BY PLANNING COMMISSION:

May 10, 2006

Larson moved approval, as revised today, seconded by Carroll and carried 8-0: Larson, Taylor, Carroll, Esseks, Strand, Cornelius, Sunderman and Carlson voting 'yes'; Krieser absent. This is final action unless appealed to the City Council.

There being no further business, the meeting was adjourned at 4:10 p.m.

Please note: These minutes will not be formally approved until the next regular meeting of the Planning Commission on May 24, 2006.

